IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 434 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE M.S.SHAH

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	No
2	To be referred to the Reporter or not ?	No
3	Whether their Lordships wish to see the fair copy of the judgment ?	No
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?	No
5	Whether it is to be circulated to the civil judge ?	No

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PRAKASH MARVARI & 1 - Petitioner(s)
Versus
MUNICIPAL CORPORATION BARODA & 1 - Respondent(s)

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Appearance :
MR RD RAVAL for Petitioner(s) : 1 - 2.
MR PRANAV G DESAI for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE M.S.SHAH

Date : 26/06/2006

ORAL JUDGMENT

1. This petition is filed by two employees of the Baroda Municipal Corporation (hereinafter referred to as “the Corporation”) for quashing the chargesheets dated

3.5.1993 (bearing Nos. 583/93-94 and 587/93-94) and for a declaration that issuance of such chargesheets amounted to victimisation of the petitioners for having moved the Court.

2. The petitioners Prakash Marvari and Kishor Solanki were initially appointed as Savai Kamdars in the year 1984 and 1983 respectively. Subsequently, they were assigned the duties of the Supervisors and the Assistant Municipal Commissioner, Baroda, had issued identity cards and curfew passes wherein the petitioners were shown as Supervisors. The petitioners had filed Special Civil Application No. 410 of 1993, praying that the respondent be directed to pay the petitioners salary and allowances in the pay scale for the Supervisors. For the reasons recorded in separate judgement rendered today in Special Civil Application No. 410 of 1993 and 835 of 1993, the respondent Corporation has been directed to fix the petitioners' pay in the pay scale for the Supervisors with effect from 1.1.1993 and the Corporation is also directed to pay the petitioners actual salary and allowances on that basis for the period from 1.7.2006 onwards.

3. The chargesheets under challenge in this petition were issued by the Corporation on 3.5.1993 alleging that the petitioners had produced copies of certain documents in Special Civil Application No. 410 of

1993 without obtaining prior permission of the higher officers for producing them before the Court and therefore it amounted to misconduct.

4. On perusal of the memo of Special Civil Application No. 410 of 1993 and the documents annexed thereto, the Court finds that what the petitioners had produced were copies of certain office communications or the orders which indicated that the petitioners were assigned the duties of Supervisors. The documents were not copies of any office record which could ever be considered to be confidential. Even proceeding on the basis that the petitioners were required to obtain permission of the superior officers before producing the documents elsewhere, in the facts and circumstances of the case and looking to the nature of the documents in question, it cannot be said that the petitioners had committed any misconduct which would warrant initiation and institution of departmental inquiry against the petitioners more particularly when the Court has found considerable substance in the grievance made in Special Civil Application No. 410 of 1993 and the companion petition.

5. In the result, the petition is allowed. Chargesheets dated 3.5.1993 bearing Nos. 583/93-94 and 587/93-94 are quashed and set aside and the respondent Corporation is restrained from taking any action on the

basis of the said chargesheets. Rule is made absolute accordingly.

(M.S. SHAH, J)

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